

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

WILLIAM VAZQUEZ,

Petitioner,

v.

Civil Action No. 2:05cv86

AL HAYNES,

Respondent.

ORDER

It will be recalled that on June 26, 2006, Magistrate Judge Kaull filed his Opinion/Report and Recommendation, wherein the Petitioner was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. Petitioner filed his objections on July 11, 2006.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Petitioner in his Petition, filed pursuant to 28 U.S.C. §2241, wherein Petitioner is attempting to attack his federal sentence based the decision of U.S.v. Booker, 543 U.S. 220 (2205), were thoroughly considered by Magistrate Judge Kaull in his Report and Recommendation. Upon review of the Petitioner's objections, the Court finds that the Petitioner has not raised any issues that were not already considered and addressed by the Magistrate Judge in his Report and Recommendation. Moreover, the Court, upon an independent de novo consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Kaull's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance

with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Petitioner's Petition for Writ for Habeas Corpus shall be, and the same hereby is, **DENIED** and **DISMISSED WITH PREJUDICE**. It is further

ORDERED that the above-styled action shall be **STRICKEN** from the docket of this Court. It is further

ORDERED that the Clerk shall enter judgment for the Respondent. It is further

ORDERED that, if Petitioner should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

ENTER: June 12th, 2007

/s/ Robert E. Maxwell
United States District Judge